



RE: Tidbits... 
Dave Bartus to: Conaway, Kathy (ECY)

04/15/2010 11:01 AM

Specifically, unit-specific waste analysis plans must document both the sampling and analysis requirements.

"Conaway, Kathy (ECY)"

Are you suggesting permit conditions in P...

04/15/2010 10:51:06 AM

From: "Conaway, Kathy (ECY)" <KCON461@ECY.WA.GOV>
To: Dave Bartus/R10/USEPA/US@EPA
Date: 04/15/2010 10:51 AM
Subject: RE: Tidbits...

Are you suggesting permit conditions in Part II or the unit specific conditions or only stating a general permit responsibility?

-----Original Message-----

From: Bartus.Dave@epamail.epa.gov [mailto:Bartus.Dave@epamail.epa.gov]
Sent: Thursday, April 15, 2010 9:17 AM
To: Conaway, Kathy (ECY)
Subject: Tidbits...

The following is excerpted from notes from EPA's regional and HQ RCRA attorney's call. The reason I'm sharing this is that it stresses how critical it is to get sampling for verifying satisfaction of LDR treatment standards right in the permit.

Post-Treatment Testing Protocols To Ensure Compliance With Land Disposal Treatment Standards

Mike Hingerty, Region 9, reported that an NEIC inspection at a state-permitted TSD revealed flaws in the protocols for post-treatment testing of the waste prior to land disposal. Some of the batches tested by NEIC exceeded universal treatment standards (UTS) and also exceeded the hazardous characteristic for at least one constituent.

The permit-as-a-shield provision at 40 CFR 270.4 protects the TSD if it is in compliance with the protocols which are set forth in the permit. According to that provision, violations of Part 268 land disposal restrictions (LDRs) are not shielded by the permit; thus enforcement can be pursued for those LDR violations.

Mike wanted to alert the group that similar violations may occur elsewhere. Andrea Simpson, Region 1, agreed mentioning a similar case against Clean Harbors, whose sampling protocols (composite sampling instead of grab sampling) were not designed to provide the appropriate data.

Mike explained that, as part of the resolution of the Region 9 case, a permit modification will be required to redress the inadequacy of the TSD's sampling protocols.